



# Appeal Decision

Site visit made on 21 May 2024

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

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**Appeal Ref: APP/W1145/W/24/3340091**

**Land at Holwill Drive, Great Torrington, Devon EX38 7LQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Wayne Pitts and Ms Aleena Foster against the decision of Torrington District Council.
  - The application Ref is 1/0661/2023/FUL.
  - The development proposed is one dwelling, access & parking including retaining wall to rear (retrospective).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During the course of the appeal, the Council has accepted that a typographical error was made within its decision notice. This was in respect of reference to Policy ST09 of the North Devon and Torrington Local Plan 2011-2031 (LP). ST09 refers to the Council's strategy for coastal areas which the appeal site does not lie within. There is therefore little evidence of any conflict with this policy. The Council says that it intended to reference Policy DM09 of the LP, which deals with safeguarding green infrastructure. This is consistent with the officer report. The appellant has had an opportunity to comment on this matter.
3. At the time of my visit, I saw that a wall and fencing had been erected and that the application has been submitted retrospectively, in part, for this element of the overall scheme to provide a single dwelling. I have dealt with the appeal on that basis.

## Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the area; and (ii) living conditions of nearby neighbours with regard to noise and the risk of crime.

## Reasons

### *Character and appearance*

5. The appeal site comprises an area of undeveloped open space within a sustainably located residential housing estate. Regardless of the status of conditions attached to a previous planning permission, and the site's private ownership, this space creates a natural break in the layout of properties. Here, attractive views of the countryside can be appreciated.

6. A highway-maintained path with good sight lines cuts across the appeal site. It provides an inviting and permeable access route towards the primary school. Even if low level fencing were to be introduced, or the path stopped up as asserted by the appellant, its undeveloped state forms a rare and locally distinctive characteristic of the area. For these reasons, the open space promotes an inclusive environment for local residents that adds to its quality.
7. Although tall, the fence above the retaining wall is set at a lower height than the building behind. Additionally, there are other tall walls and fences nearby. Consequently, although rather stark in its appearance, it does not stand proud or appear wholly out of place. Nevertheless, the evidence shows that the appeal site previously included planting that has been removed. This would have been likely to have softened the site's overall appearance. Had I been minded to allow the appeal, it would have been possible to ensure the planting of the proposed box hedge using an appropriately worded condition.
8. There is no dispute that the proposed scale, design, and use of materials would be similar to other nearby properties. However, despite the proposed tree planting, the dwelling would irrevocably erode the undeveloped qualities of the appeal site. Furthermore, in terms of layout, the diverted path would run alongside a narrow gap between the proposed property's front elevation/garden and the boundary features of existing properties. Although no demarcation is shown on the plans, it is likely that future occupants would wish to provide some form of screening here. Even if they did not, this layout would still lead to a significantly less open access route when compared with the current arrangement. Additionally, the immediate proximity of the path to the front of the property would introduce a competing use of space. This would not be a sympathetic design that responds positively to the characteristics of the site.
9. For the above reasons, the proposal would harm the character and appearance of the area. As such, it would be in conflict with policies ST04 and DM04 of the LP and Policy ENV3 of the Great Torrington Neighbourhood Plan. Collectively in this respect, and amongst other things, these policies seek to promote development that contributes positively towards local distinctiveness, providing sympathetic layout, relationship to buildings and landscape features. There would also be conflict with paragraph 135 of the National Planning Policy Framework where it says that decisions should ensure that developments function well and add to the overall quality of the area.

#### *Living conditions*

10. The Council's concerns in respect of noise and an increased risk of crime are confined to the living conditions of the occupiers of existing properties to the east of the site. In respect of a perceived fear of crime, I observed the adjoining walls and fences of neighbouring properties to be substantially constructed and tall. They form a clear distinction between spaces. As such, there is no firm evidence that pedestrians walking alongside these boundaries would be more likely to commit crime as a result of the diverted path.
11. Although a section of path would be closer to some neighbouring properties, its usage would be likely to be light and occasional, covering a very short distance. At the time of my visit, no pedestrians made use of the existing path. The most prominent background noise was emanating from the nearby school. It is acknowledged that my observations only represent a snapshot in time, and

that there may be busier times at school drop off or pick ups for example. However, in the absence of any compelling evidence to the contrary, it is most unlikely that the development would generate unacceptable levels of noise.

12. Therefore, I conclude on this main issue that the proposal would have an acceptable effect on the living conditions of nearby neighbours with regard to noise and the risk of crime. As such, there would be no conflict with policy DM01 of the LP which says, in part, that development will be supported where it would not significantly harm the amenities of any neighbouring occupiers.

### **Planning Balance and Conclusion**

13. Bringing together my conclusions on the main issues, I have found that the living conditions of the occupiers of existing properties would not be harmfully affected. However, this does not outweigh the harm I have found to the character and appearance of the area.
14. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development fails to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

*J Hills*

INSPECTOR